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Date of Decision: 12.2.1996

FOR APPROVAL AND SIGNATURE

THE HON'BLE MR. JUSTICE N N MATHUR

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?
5. Whether it is to be circulated to the Civil Judge ?

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Mr S K Zaveri, Advocate for the petitioner

CORAM ; N N MATHUR, J.

(February 12, 1996)

ORAL JUDGMENT

By way of this Special Civil Application, the petitioner has challenged the levy and imposition of taxes on buildings, lighting tax and octroi in pursuance of Resolutions No.34, 44 and 45 dated 25.9.1987.

2. I have heard Mr S K Zaveri, learned Advocate for the petitioner. None appeared for the respondents. No reply has also been filed. The challenge of the levy of the tax is on the ground that proper procedure has not been followed and secondly the respondent has imposed the levy beyond the maximum limit provided under the Rules. So far as following of the procedure of the levy of tax is

concerned, I am not inclined to enter into that aspect. However, it clearly appears that the lighting tax which is imposed by the respondent Gram Panchayat at the rate of 12/- per house is beyond the prescribed limit under Rule 120-J which provides for Rs.10/- per annum per house. Similarly, with regard to the general sanitary cess under the schedule the rates are prescribed for the capital value of house not exceeding Rs.1500/-, the maximum limit prescribed is 60 paise per annum per Rs.100/- of the capital value and for the value of house exceeding Rs.1500/-, the maximum tax is leviable is Rs.7/- per annum whereas the respondent has imposed Rs.12/- per annum and as such the same is excessive to the permissible limit. In view of the fact that the aforesaid statement has gone uncontroverted, I am left with no option but to allow this Special Civil Application to the extent of levy of taxes beyond the permissible limit in the case of levying tax and general sanitary cess.

3. In view of the aforesaid, this Special Civil Application is allowed and the excessive levy of the tax beyond the prescribed limit in the case of lighting tax and general sanitary cess are brought down to the maximum level as provided under the Rules.

Rule made absolute as indicated above.

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